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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,808	02/27/2004	Michael D. Smith	418268002US	5627
45979 7590 05/29/2008 PERKINS COIE LLP/MSFT P. O. BOX 1247 SEATTLE, WA 98111-1247				
EXAMINER				
WANG, HARRIS C				
ART UNIT		PAPER NUMBER		
2139				
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05/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/789,808

Applicant(s)

SMITH ET AL.

Examiner

HARRIS C. WANG

Art Unit

2139

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 8, 9, 12, 14-19, 29 and 32-40.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kristine Kincaid/
Supervisory Patent Examiner, Art Unit 2139

Continuation of 11, does NOT place the application in condition for allowance because: The Applicant has argued that "A consumer cannot perpetrate a fraud using applicant's technology. (pg. 10 of Remarks)." The Applicant enumerates ways that the consumer could try to cheat. Including "First, the consumer tries to cheat by providing the wrong end code" This situation does not make sense as the consumer has the start code, therefore the consumer can generate any code from the start code and the code will always be correct. An analogy is the consumer is the producer of an answer key. The consumer gives the intermediary the same answer key. If the intermediary tests the consumer for an answer, of course the consumer will be able to give the correct answer as the very answer key that the intermediary is using to judge the correct answer was first given to the intermediary by the consumer.

The Applicant next argues "Second, assume the consumer tries to cheat by providing the right end code to the service intermediary and in turn to the service provider when it requests a service. The service provider will verify whether the right end code can be generated from the wrong next code." Once again, even if the consumer gives the wrong code to the provider, when the intermediary asks for a code, the consumer can once again give a correct code. In every case the consumer can always give the correct code, as both the intermediary and the consumer have the start code. That is why the Examiner stated that "only the end code of the provider is used to determine whether the service is provided (pg. 4 of Final Office Action)."

The Applicant has argued that "Before the consumer last code is provided to the service intermediary, the only code that the service intermediary and the consumer share is the end code that the consumer originally registered (pg. 12 of Remarks)." This explicitly contrasts the Applicants specification several times. (Figure 2 step 2 the consumer sends the intermediary the "start code", Paragraph [0035] "The consumer then sends a registration request to the service intermediary. The request may include the start code." Claim 29). Therefore the Examiner considers the Applicants arguments unpersuasive and maintains his previous rejection.